IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Crl.MC.No. 3356 of 2007()

CC.368/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KUNNAMKULAM

.....

PETITIONER: ACCUSED NO.1 TO 4

---

1. V.V.RAJENDRAN @ SUNIL, AGED 33 YEARS,
   S/O.VISWANATHAN, VISHVAPURATH HOUSE, MANAKKULAM
   PALACE ROAD, KUNNAMKULAM P.O., THRISSUR.
   NOW RESIDING AT RAJAGIRI APARTMENTS, GOVERNMENT
   ENGINEERING COLLEGE P.O., THRISSUR.

2. SARASWATHI, AGED 61 YEARS,
   W/O.LATE VISWANATHAN, VISHVAPURATH HOUSE,
   KUNNAMKULAMP.O., PALACE ROAD, THRISSUR.

3. VISWAKUMARI, AGED 41 YEARS, W/O.RAVI,
   KANJANKAT HOUSE, NALAMKALLU, KUNNAMKULAM,
   THRISSUR.

4. SREEVIDYA.V.V., AGED 36 YEARS,
   W/O.THILAKAN, KARANANGATTU HOUSE,
   KARICHALKADAVU ROAD, PENGAMUKKU
   KUNNAMKULAM, THRISSUR.

BY ADV. SMT.C.S.SHEEJA

RESPONDENTS: COMPLAINANT

---

1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. MAHESWARIAMMA @ MEERA, AGED 27 YEARS,
   W/O.V.V.RAJENDRAN @ SUNIL
   THACHARAYIL, THALAYOLAPARAMBU P.O.,
   KOTTAYAM.

BY ADV. SRI.A.C.DEVY
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3356 of 2007

Dated this the 5th day of November 2007

O R D E R

The petitioners are the husband of the de facto complainant and his relatives. The de facto complainant is the second respondent herein. The second respondent had filed a private complaint. The same was referred to the police under Section 156(3) Cr.P.C. Investigation was conducted by the police and after such investigation, final report was filed alleging commission of the offence punishable under Section 498A read with 34 I.P.C against all the four petitioners. Cognizance has been taken by the learned Magistrate and the case is now pending before the learned Judicial First Class Magistrate Court, Kunnamkulam as C.C.No.368/07. The petitioners and the second respondent have come to this court through their counsel. It is reported to the court that all the disputes between the petitioners and the second respondent have been settled amicably. The first petitioner and the second respondent-spouses have now resumed harmonious co-habitation. The second respondent has compounded the offence allegedly committed by the petitioners.

2. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor submits that the State has no objection against the acceptance of the composition.

3. The learned counsel for the second respondent, Sri.A.C.Devy confirms that the matter has been settled between the parties and the second respondent, his client, has compounded the offence allegedly committed by the petitioners 1 to 4. I am, in these circumstances, satisfied that the parties have willingly and voluntarily settled their disputes and the spouses have now resumed co-habitation. I am satisfied from the submissions made at the Bar and the joint statement filed by the rival contestants duly countersigned by their respective counsel that the dispute have been settled and the first respondent has compounded the offence allegedly committed by the petitioners. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be brought about.

4. But the offence under Section 498A I.P.C is not legally compoundable under Section 320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the

interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the petitioners brought to premature termination.

5. I am not insisting on a joint application between the parties in the light of the assertion of the learned counsel for the second respondent that the parties have settled the disputes and have resumed harmonious co-habitation.

6. In the result, this petition is allowed. C.C No.368/07 pending before learned Judicial First Class Magistrate Court, Kunnamkulam against the petitioners under Section 498A read with 34 I.P.C is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007